

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHRISTOPHER STEPTOE

v.

**SEARS HOLDINGS MANAGEMENT
CORPORATION AND SEARS, ROEBUCK
AND CO.**

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CASE NO.: _____

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Sears, Roebuck and Co. and Sears Holdings Management Corporation file this Notice of Removal of an action pending in the District Court of Harris County, Texas, Cause No. 2018-26646, removing the case to the United States District Court for the Southern District of Texas, Houston Division, and would respectfully show the Court as follows:

Background

1. Plaintiff Christopher Steptoe ("Plaintiff") commenced an action in the District Court of Harris County, Texas ("State Court Action"), on April 9, 2018. (Exhibit "A"). Plaintiff's Original Petition incorporates allegations of malicious prosecution, negligence, intentional infliction of emotional distress, and defamation/slander per quod against Defendants arising from an incident that occurred between Plaintiff and one of the Defendants' employees, which subsequently led to the arrest of Plaintiff.

Removal is Timely

2. Sears, Roebuck and Co. and Sears Holdings Management Corporation were served with citation on April 30, 2018. (Exhibit “B”). Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely, as it is filed within 30 days of the service of the Petition on Defendants.

Venue is Proper

3. The Houston Division of the United States District Court for the Southern District of Texas is the appropriate court for filing a Notice of Removal from the District Court of Harris County, Texas, because it is the court for the district and division embracing the place where the State Court Action is pending. *See* 28 U.S.C. § 1441(a).

Diversity Jurisdiction

4. The underlying State Court Action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. It may be removed to this Court by Defendants pursuant to 28 U.S.C. § 1441, because, at the time suit was filed, the dispute was and remains between citizens of different states. Defendants were and are not citizens of the State of Texas, and Plaintiff is a citizen of the State of Texas. *See* Exhibit A, p.4. In addition, the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. *See* Exhibit A, p.4; *De Aguilar v. Boeing Co.*, 11 F.3d 55, 58 (5th Cir. 1993) (if it is facially apparent from the state court petition that the amount in controversy exceeds the jurisdictional minimum requirement, then defendant need only point such fact out to successfully bear its burden).

5. Accordingly, this case is removable to the United States District Court for the Southern District of Texas, Houston Division.

Other Matters

6. The following documents required by 28 U.S.C. § 1446(a) and Local Rule 81 are attached to this Notice of Removal:

- a. Pleadings asserting causes of action, e.g., Plaintiff's Original Petition (*see* Exhibit "A");
- b. All executed process in the case (*see* Exhibits "B");
- c. Defendants' Verified Original Answers (*see* Exhibits "C" and "D");
- d. The docket sheet (*see* Exhibit "E");
- e. A list of all counsel of record, including addresses, telephone numbers and parties represented (*see* Exhibit "F"); and
- f. An index of matters being filed (*see* Exhibit "G").

7. As required by 28 U.S.C. § 1446(d), on this date written notice of the filing of this Notice of Removal has been given to Plaintiff and a copy of this Notice of Removal has been filed with the Clerk of the District Court of Harris County, Texas.

8. No admission of fact, law, or liability is intended by this Notice of Removal, and Defendants expressly reserve all defenses, affirmative defenses, and motions.

Respectfully submitted,

By: /s/ Jason Wagner

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ATTORNEYS FOR SEARS, ROEBUCK
AND CO. AND SEARS HOLDINGS
MANAGEMENT CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendants Notice of Removal** was served, pursuant to Federal Rule of Civil Procedure 5, via electronic service, on this the 24th day of May, 2018, to:

Gene A. Watkins
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1418 Washington Avenue
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Email: gwatkins@shermanwatkins.com
(Attorney for Plaintiff)

/s/ Jason Wagner
Jason Wagner